

Board will hear objections of all interested persons to the Final Assessment Resolution and approve the aforementioned initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

SECTION ~~2.05~~ 2.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION.

At the public hearing as noticed pursuant to Sections ~~2.04~~ 2.05 hereof, or to which an adjournment or continuance may be taken by the Board, the Board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the Board adopt the Final Assessment Resolution which shall (A) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Board; (B) impose the Annual Wastewater Assessments Assessment; (C) approve the initial Assessment Roll, with such amendments as it deems just and right; and (D) determine the method of collection. The adoption of the Final Assessment Resolution by the Board shall constitute a legislative determination that all parcels assessed derive a special benefit from the ~~Wastewater~~ wastewater services and facilities, to be provided or constructed and a legislative determination that the Annual Wastewater Assessments are Assessment is fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the Final Assessment Resolution shall be filed with the County Administrator at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which an Annual Wastewater Assessments are Assessment is imposed or reimposed hereunder.

SECTION ~~2.06~~ 2.07. EFFECT OF FINAL ASSESSMENT RESOLUTION. The

Annual Wastewater Assessments Assessment for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the reasonableness of the legislative determination of special benefit and fair apportionment to the Assessed Property; the reasonableness of the method of apportionment ~~and assessment~~; the enforceability and accuracy of the calculation of the initial rate of assessment ; and the preparation of the initial Assessment Roll; and the ~~levy and validity and enforceability of the~~ lien of the Annual Wastewater Assessments Assessment), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Board action on the Final Assessment Resolution. The initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Annual Wastewater Assessments, such other official as the Board by resolution shall designate.

SECTION ~~2.07~~ 2.08. ADOPTION OF ANNUAL RATE RESOLUTION.

(A) The Board shall adopt an Annual Rate Resolution during its budget adoption process for each Fiscal Year following the initial Fiscal Year ~~for which a~~ during the Wastewater Assessment ~~is imposed hereunder.~~ Term.

~~(B) The~~ (B) As the initial proceedings for the adoption of an Annual Rate Resolution shall be the adoption of a Preliminary Rate Resolution by the Board ~~(1) containing a brief and general description of the Wastewater services, facilities, or programs to be provided; (2) determining the Wastewater Assessable Cost to be assessed for the upcoming Fiscal Year; (3) establishing the estimated assessment rate for the upcoming Fiscal Year; (4) authorizing~~ the Utility Provider shall certify prior to June 1 of each Fiscal Year a Supplemental Wastewater Assessment Notice containing the following information:

(1) For each Supplemental Annual Wastewater Assessment: (a) summary description of the parcel subject to the assessment (conforming to the description contained on the Tax Roll); (b) the name of the Owner of the parcel assessed as shown on the Tax Roll; (c) the Assessable Costs, Annual Wastewater Assessment amount, Wastewater Assessment Term and Assessment Interest Amount attributable to the assessed parcel for the Supplemental Annual Wastewater Assessment; and (d) acknowledgment of the receipt of the Initial Wastewater Assessment for the parcel subject to the Supplemental Annual Wastewater Assessment;

(2) Any deletions of an Annual Wastewater Assessment imposed against a parcel of property or a previously adopted Assessment Roll as a consequence of the prepayment of unpaid Assessable Costs pursuant to any right of prepayment provided by resolution.

(C) Based on the information provided in the Supplemental Wastewater Assessment Notice, the Board shall adopt an Annual Rate Resolution:

(1) Authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and

~~(5) directing~~(2) Directing the County Administrator to (a) update the Assessment Roll, (b) provide notice by publication pursuant to ~~section 2.04~~ Section 2.05 herein (c) provide notice by first class mail to affected Owners in the event circumstances described in subsection ~~(D)~~(E) of this Section so require, and (d) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the County.

~~(C)(D)~~ The Annual Rate Resolution shall (1) establish the ~~rate of assessment~~ Annual Wastewater Assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the Board deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, ~~or any subsequent Preliminary Rate Resolution~~, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

~~(D)~~(E) In the event (1) the proposed Annual Wastewater Assessment for any Fiscal Year exceeds the maximum rate of assessment provided in the Consent and

Acknowledgment Agreement, (2) the purpose for which the Annual Wastewater Assessment is imposed or the use of the revenue from the Annual Wastewater Assessment is substantially changed from that ~~represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 hereof and~~ acknowledged in the Consent and Acknowledgment Agreement, or (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Annual Wastewater Assessment from that ~~represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 hereof and~~ in any publication provided pursuant to Section 2.05 or acknowledged in the Consent and Acknowledgment Agreement, notice shall be provided first class mail to the Owners of such Assessed Property. Such notice shall substantially conform with the notice requirements set forth in the Uniform Assessment Collection Act and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a an Annual Wastewater Assessment imposed by the Board pursuant to this Ordinance.

~~(E)~~(F) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior ~~year's~~ year Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the reasonableness of the legislative determination of special benefit and fair

apportionment to the Assessed Property; the reasonableness of the method of apportionment and assessment, the; the enforceability and accuracy of the calculation of the initial rate of assessment, ~~the~~ and the preparation of the initial Assessment Roll; and ~~the levy and~~ validity and enforceability of the lien of the Annual Wastewater Assessments (Assessment), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Board action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Annual Wastewater Assessment not challenged within the required 20-day period for those Annual Wastewater Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(F)(G) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Annual Wastewater Assessments Assessment, such other official as the Board by resolution shall designate. If the Annual Wastewater Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

SECTION 2.08: 2.09. LIEN OF ANNUAL WASTEWATER ASSESSMENTS.

Upon the adoption of the Assessment Roll, all Annual Wastewater Assessments shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise

provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a an Annual Wastewater Assessment shall be deemed perfected upon the Board's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a an Annual Wastewater Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for a an Annual Wastewater Assessment collected under the alternative method of collection provided in Section 3.02 shall be deemed perfected upon the Board's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

SECTION ~~2.09~~: 2.10. REVISIONS TO ANNUAL WASTEWATER ASSESSMENTS. If any Annual Wastewater Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the Board is satisfied that any such Annual Wastewater Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board has failed to include or omitted any property on the Assessment Roll which property should have been so included, the Board may take all necessary steps to impose a new Annual Wastewater Assessment against any property ~~benefited~~ benefitted by the Wastewater Assessed Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Annual Wastewater Assessment is annulled, vacated,

or set aside, the Board may obtain and impose other Annual Wastewater Assessments until a valid Annual Wastewater Assessment is imposed.

SECTION 2.10 2.11. PROCEDURAL IRREGULARITIES. Any informality or irregularity in the proceedings in connection with the levy of any Annual Wastewater Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Annual Wastewater Assessment as finally approved shall be competent and sufficient evidence that such Annual Wastewater Assessment was duly levied, that the Annual Wastewater Assessment was duly made and adopted, and that all other proceedings adequate to such Annual Wastewater Assessment were duly had, taken, and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

SECTION 2.11 2.12. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, County Administrator, Board, or their deputies or employees, shall operate to release or discharge any obligation for payment of a an Annual Wastewater Assessment imposed by the Board under the provision of this Ordinance.

(B) When it shall appear that any Annual Wastewater Assessment should have been imposed under this Ordinance against a parcel of property specially ~~benefited~~ benefitted by the provision of ~~Wastewater~~ wastewater services, facilities, or programs, but that such property was omitted from the Assessment Roll; or such property was

erroneously assessed; or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the Board may, upon provision of a notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided in the Uniform Assessment Collection Act, impose the applicable Annual Wastewater Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Annual Wastewater Assessment due for the prior two Fiscal Years. Such Annual Wastewater Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in Article III hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted, delinquent, or corrected assessments.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the County Administrator shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a an Annual Wastewater Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Annual Wastewater Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid

ab initio and shall in no way affect the enforcement of the Annual Wastewater Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the County Administrator and not the Property Appraiser or Tax Collector.

(D) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the County Administrator.

ARTICLE III

COLLECTION AND USE OF ANNUAL WASTEWATER ASSESSMENTS

SECTION 3.01. METHOD OF COLLECTION.

(A) Unless otherwise directed by the Board, the Annual Wastewater Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the County shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(B) The amount of a an Annual Wastewater Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific

parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided; (1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act, (2) notice is provided to the Owner as required under the Uniform Assessment Collection Act, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Annual Wastewater Assessment upon certification of a non-ad valorem roll to the Tax Collector by the County.

SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION. In lieu of using the Uniform Assessment Collection Act, the Board may elect to collect the Annual Wastewater Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The Board shall provide Annual Wastewater Assessment bills by first class mail to the Owner of each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Annual Wastewater Assessment, (2) a description of the unit of measurement used to determine the amount of the Annual Wastewater Assessment, (3) the number of units contained within the parcel, (4) the total amount of the Annual Wastewater Assessment imposed against the parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Annual Wastewater Assessment is due, and (7)

a statement that the Annual Wastewater Assessment constitutes a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) A general notice of the lien resulting from imposition of the Annual Wastewater Assessments shall be recorded in the Official Records of the County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The Board shall have the right to foreclose and collect all delinquent Annual Wastewater Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Annual Wastewater Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Board or its agent shall notify any property owner who is delinquent in payment of his or her Annual Wastewater Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the Board or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Annual Wastewater Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (2) cause an amount equivalent to the delinquent Annual Wastewater Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the County may be the purchaser to the same extent as any Person. The Board or its agent may join in one foreclosure action the collection of Annual Wastewater Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Board and its agents, including reasonable attorney fees, in collection of such delinquent Annual Wastewater Assessments and any other costs incurred by the Board as a result of such delinquent Annual Wastewater Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Annual Wastewater Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the Owner in the manner required by the Uniform Assessment Collection Act and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Annual Wastewater Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(F) Notwithstanding the Board's use of an alternative method of collection, the County Administrator shall have the same power and authority to correct errors and omissions as provided to him or other County officials in Section ~~2.11~~ 2.12 hereof.

(G) Any Board action required in the collection of Annual Wastewater Assessments may be by resolution.

SECTION 3.03. GOVERNMENT PROPERTY.

(A) In the event Annual Wastewater Assessments are imposed against Government Property, the Board shall provide Annual Wastewater Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Annual Wastewater Assessment, (2) a description of the unit of measurement used to determine the amount of the Annual Wastewater Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Annual Wastewater Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Annual Wastewater Assessment is due.

(B) Annual Wastewater Assessments imposed against Government Property shall be due on the same date as all other Annual Wastewater Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) ~~A~~ An Annual Wastewater Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Board shall notify the Owner of any Government Property that is delinquent in payment of its Annual Wastewater

Assessment within 60 days from the date such assessment was due. Such notice shall state that the Board will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent Owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the County, including reasonable attorney fees, in collection of such delinquent Annual Wastewater Assessments and any other costs incurred by the Board as a result of such delinquent Annual Wastewater Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, a an Annual Wastewater Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in periodic installments with a remedy of a mandamus action in the event of non-payment.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. APPLICABILITY. This Ordinance and the Board's authority to impose assessments pursuant hereto shall be applicable throughout the unincorporated

area of the County and throughout the incorporated area of any municipality whose governing body has heretofore or hereafter requested and consented to the provision of the ~~Wastewater~~ wastewater services, facilities and programs by the County.

SECTION 4.02. ALTERNATIVE METHOD.

(A) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the Board from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the County, (2) any notice required by this Ordinance, or (3) any notice required by law, including the Uniform Assessment Collection Act.

SECTION 4.03. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

DRAFT NO. 2
MAY 19, 2003

SECTION 4.04. EFFECTIVE DATE. The Clerk shall file a certified copy of this Ordinance with the Department of State within ten days of its adoption. This Ordinance shall take effect immediately upon its filing with the Department of State.

DULY ENACTED this _____ day of June, 2003.

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**


(SEAL)

By: _____
Chair

ATTEST:

Clerk

Approved for Form and Correctness:

By: 
County Attorney

F:\WPDATA\Compare\MONROE

DRAFT NO. 2
MAY 19, 2003

----- COMPARISON OF HEADERS -----

-HEADER 1-
DRAFT April 25 NO. 2
MAY 19, 2003